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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/542,222

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Fadi Salim Amran

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Rutan & Tucker, LLP.

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SUITE 1400

COSTA MESA, CA 92626

EXAMINER

SWENSON, BRIAN L

ART UNIT

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3618

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/542,222	<b>Applicant(s)</b> AMRAN, FADI SALIM	
	<b>Examiner</b> BRIAN SWENSON	<b>Art Unit</b> 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. Acknowledgement is made of the amendment filed on June 6, 2008 where:
  - a. Claims 2, 5, 7, 8, 15, and 16 have been amended.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 10-13 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation “the extensions” in line 1.

There is insufficient antecedent basis for these limitations in the claims. Note: Applicant states that claim 10 has been amended, however no amendment was found to the claim in the response filed on June 6, 2008.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5, 16-17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,932,427 issued to Tamura in view of U.S. Patent No. 6,145,716 issued to Caicedo.

Tamura teaches in Figures 1-5 and respective portions of the specification of a collapsible stroller with: a configuration is a stroller configuration wherein the stroller backpack comprises a seat assembly adapted to receive a child (see Figure 1 and Col. 1, line 8 where it is disclosed that the seat is adapted for a child); and another configuration is a portable backpack configuration wherein the stroller is adapted to be pushed or pulled along the ground using a handle (15) extended from the stroller backpack while the seat assembly is not adapted to receive a child (see for example Figure 4).

Tamura discloses the claimed invention including a third configuration (Figure 3) where the seat assembly is folded out of the way and the carrier is used as a suitcase. Tamura does not teach of shoulder straps for using the carrier as a backpack.

Caicedo teaches in Figures 1-10 and respective portions of the specification of a backpack that contains a seat that can be folded into a use position.

It would have been obvious to one having ordinary skill in the art at the time of invention to combine the familiar shoulder straps taught by Caicedo, located on the opposite side of the container (11) as the seat (21), with the suitcase structure taught by Tamura (Figure 3) to allow the user to transport the suitcase over an uneven running surface with the user's hands free; additionally, such a combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results (see MPEP 2143(A)).

In re claim 3, see Figure 1 of Tamura where the seat (21) projects from the container (11).

In re claims 17 and 21, the method of changing the configuration of the stroller backpack by extending a handle outward (Figure 1 of Tamura) and causing the seat assembly to project

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outward from the container away from the handle (Figure 2 of Tamura) and then collapsing the seat and handle (Figure 3 of Tamura) is inherently performed by the apparatus taught by Tamura and as modified by Caicedo.

4. Claims 4, 6-15, and claims 18-20 (claims 10-13, as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Tamura in view of Caicedo, as modified above, and in further view of U.S. Patent No. 3,290,050 issued to Ezquerra.

Tamura as modified by Caicedo disclose a handle (15), but do not teach of a rotatable handle and two grip members moveably coupled to the handle.

Ezquerra teaches of an adjustable handle (Figure 1, element 17) for a stroller that allows two grip members placement to be adjusted; see reference numeral 20 that are taken to be grip members allowed to translate longitudinally within handlebar 17 (see arrowheads located above handlebar).

It would have been obvious to one having ordinary skill in the art at the time of invention to provide the adjustable handle structure, as taught by Ezquerra, in the invention taught by Tamura and as modified by Caicedo to allow the handle to be placed at an ergonomic position for the user.

In re claims 18-20 the method is inherently performed by the apparatus taught by Tamura and as modified by Caicedo and Ezquerra. Additionally, it would have been obvious to one having ordinary skill in the art at the time of invention to provide a zipper to store the seat, as shown by Tamura in Figure 1, as an obvious engineering expedient.

*Response to Arguments*

5. Applicant's amendments to claims 2 and 8 have overcome the rejections under 35 USC 102 as being anticipated U.S. Patent No. 6,145,716 issued to Caicedo and these rejections have been withdrawn.

In regards to applicant's arguments, page 9 of the response, that "the suitcase of Tamura is not intended to be carried." Applicant cites, as support, Col. 1, lines 33-35 and 50-53, and Col. 3, lines 19-25. The examiner notes the cited passage (Col. 1) is a discussion of the prior art (Japanese Lade-Open Patents 28438/1997 & 179824/1982) and is not considered germane to the patent issued to Tamura. The passage cited in Col 3 is a discussion of moving the suitcase along the floor by the wheels. Neither passage supports applicant's argument that "the suitcase of Tamura is not intended to be carried." Tamura further contradicts applicant's assertion by showing two handles (see elements 17 in Figure 1) for allowing a user to carry the suitcase.

In regards to applicant's arguments, pages 9 and 10 of the response, that "[m]odifying Tamura with the shoulder straps of Caicedo would render the Tamura suitcase unsatisfactory for its intended purpose. The Tamura suitcase, if modified with the shoulder straps of Caicedo, could not retain its large carrying capacity and convenient roller bag configuration along with the chair structure." And further on page 10: "Combining shoulder straps with the Tamura suitcase would result in a cumbersome, heavy, bulky, and unusable device for carrying anything on a person's back."

These arguments are not found persuasive.

The shoulder straps of Caicedo would be attached to the exterior of the suitcase (in the same manner as shown by Caicedo in Figure 8, for example) and would have no effect on the

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carrying capacity of the suitcase taught by Tamura. Tamura further shows two carrying handles (17) and it can be reasoned that the suitcase is not so "cumbersome, heavy, bulky," as to be "unusable." Providing shoulder straps would make the suitcase less cumbersome when carried, by allowing the user to support the suitcase on their back, closer to their center of gravity, compared with carrying the suitcase at their side with the handle (17).

In regards to applicant's arguments, pages 10 and 11 of the response, that "elements, even distinguishing elements, are disclosed in the art is insufficient" and "[i]t is insufficient that the art disclosed components of Applicant's invention. A teaching, suggestion, or incentive must exist to make the combinations by Applicant."

As disclosed above, the examiner maintains the position that it would have been obvious to one having ordinary skill in the art at the time of invention to combine the familiar shoulder straps taught by Caicedo, located on the opposite side of the container (11) as the seat (21), with the suitcase structure taught by Tamura (Figure 3) to allow the user to transport the suitcase over an uneven running surface with the user's hands free. Moreover, the combination of Tamura and Caicedo (and Ezquerro) would result in a predictable variation that one of ordinary skill in the art would recognize as no more than the predictable use of prior art elements according to their established functions, which has been held unpatentable under 35 U.S.C. 103(a), absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art. Ex Parte Smith, 83 USPQ2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)).

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN SWENSON whose telephone number is (571)272-6699. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher P Ellis/  
Supervisory Patent Examiner, Art Unit 3618

Brian Swenson  
Examiner  
Art Unit 3618

/B. S./  
Examiner, Art Unit 3618